

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BELCALIS MARLENIS ALMÁNZAR,

Plaintiff,

v.

LATASHA TRANSRINA KEBE and KEBE
STUDIOS LLC,

Defendants.

Case No. 1:19-cv-01301-WMR

**PLAINTIFF’S CONSENT MOTION TO AMEND
JURISDICTIONAL ALLEGATIONS PURSUANT TO 28 U.S.C. § 1653**

Plaintiff Belcalis Marlenis Almánzar (“Plaintiff”) respectfully submits this consent motion to amend the jurisdictional allegations in the operative Second Amended Complaint (ECF No. 69) against Defendants Latasha Transrina Kebe and Kebe Studios LLC (together, “Defendants”) pursuant to 28 U.S.C. § 1653, and provides as follows:

1. On April 21, 2022, the Eleventh Circuit raised the following jurisdictional questions in the then-pending appeal of this case:

Question No. 1: Please address whether the district court’s February 17, 2022 judgment was a final decision, given that the district court had not yet addressed Belcalis Marlenis Almanzar’s request for a permanent injunction, and whether the subsequent entry of a permanent injunction has cured any

defect.

Question No. 2: Please also address whether the relevant pleadings sufficiently alleged the citizenship of Kebe Studios LLC by listing the identity and citizenship of each member of the company. Insofar as the jurisdictional allegations may be inadequate, please address: (1) whether the allegations should be amended on appeal, pursuant to 28 U.S.C. § 1653, to cure any jurisdictional deficiencies in the current pleadings; (2) whether current record evidence adequately establishes the parties' citizenship; or (3) whether the record should be supplemented with additional evidence to demonstrate the parties' citizenship.

2. In response to the jurisdictional questions, Plaintiff demonstrated that the record evidence was sufficient to establish the parties' citizenship but, in the alternative, also sought to amend the allegations pursuant to 28 U.S.C. § 1653 to the extent the Eleventh Circuit deemed that amendment necessary.

3. Specifically, Plaintiff sought to amend the operative Second Amended Complaint as follows:

Current Paragraph 4: "Upon information and belief, Kebe Studios is a Georgia limited liability company with a principal office address of 3614 Janna Lane SW, Marietta, Georgia 30008."

Amended Paragraph 4: "Upon information and belief, Kebe Studios is a Georgia limited liability company with a principal office address of 3614 Janna Lane SW, Marietta, Georgia 30008. The only members of Kebe Studios are Kebe and her husband Cheickna Kebe. At all times during the pendency of this action, Kebe and her husband Cheickna Kebe have been citizens and residents of the State of Georgia."

4. On July 15, 2022, the Eleventh Circuit issued an order finding that it

lacked jurisdiction over the pending appeal and denied Plaintiff's motion to amend the jurisdictional allegations "without prejudice to her refiling it in the district court." Plaintiff is respectfully refiling this motion before this Court as suggested by the Eleventh Circuit to avoid additional delay if Defendants seek another appeal of this case.

5. Under 28 U.S.C. § 1653, "Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts." This statute is to be "construed liberally." *Toms v. Country Quality Meats, Inc.*, 610 F.2d 313, 316 (5th Cir. 1980) (citations omitted). Defendants have consented to the aforementioned amendment and have admitted the truth of these jurisdictional allegations. This approach has been expressly encouraged by the Eleventh Circuit. *Mallory & Evans Contractors & Eng'rs, LLC v. Tuskegee Univ.*, 663 F.3d 1304, 1305 (11th Cir. 2011) ("The parties are urged to agree both upon the grant of leave to file such amendment and upon the truth of the allegations of such amendment unless there is a bona fide dispute about the citizenship of Mallory & Evans or Tuskegee or both.").

6. A proposed order is attached to this motion.

Dated: July 18, 2022

Respectfully submitted,

/s/ W. Andrew Pequignot

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Attorneys for Plaintiff

Consenting to the above motion and admitting the truth of the allegations in
the Amended Paragraph 4:

/s/ Olga Izmaylova (with permission)
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CERTIFICATION AS TO FONT

In accordance with Local Rule 7.1(D), the undersigned certifies that the foregoing document was prepared with Times New Roman 14, a font and point selection approved by the Court in Local Rule 5.1(C).

Dated: July 18, 2022

/s/ W. Andrew Pequignot
W. Andrew Pequignot

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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2022, I electronically filed the foregoing PLAINTIFF'S CONSENT MOTION TO AMEND JURISDICTIONAL ALLEGATIONS PURSUANT TO 28 U.S.C. § 1653 with the Clerk of the Court using the CM/ECF system, which will automatically send email notification of such filing to all of the attorneys of record

/s/ W. Andrew Pequignot

W. Andrew Pequignot